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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/775,019
Filing Date: February 01, 2001
Appellant(s): GRIFFITH, DAVID

David W. O'Brien, Reg. No. 40,107
For Appellant

SECOND SUPPLEMENTAL EXAMINER'S ANSWER

This is in response to the Board Remand of 26 February 2010, the amendment filed 9 February 2009 and the Appeal Brief filed 21 September 2006 appealing from the Office action mailed 2 March 2006.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

3-15, 19-21, and 24-27.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

The amendments after final rejection filed on 21 September 2006, 2 May 2006, and 9 February 2009 have been entered.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner.

Examiner notes that the Supplemental Examiner's Answer of 09 December 2008 contained new grounds of rejection of claims 3-15, 19-21, and 24 under 35 U.S.C. §101.

The rejections of claims 3-15, 19-21, and 24 under 35 U.S.C. §101 are hereby withdrawn due to the amendment after final filed 9 February 2009.

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

However, Examiner notes that claims 3-15, 19, 24 have been amended in the amendment after final filed 9 February 2009 to overcome rejections under 35 U.S.C. §101. Moreover, Examiner notes that claims 25-27, drawn to the same invention, have been newly added in the amendment after final filed 9 February 2009.

(8) Evidence Relied Upon

2002/0046064	Maury et al.	04-2002
60/206,007	Maury et al.	05-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 10-15, 3-9, 19-21 and 24-27 are rejected under 35 U.S.C. §103(a).

These rejections are substantially set forth in prior Office Action, Paper No 12092005 and reproduced hereinbelow. The rejections which appear below substantially repeat the rejections made in the previous Office Action (Paper No 12092005). The text of those sections of Title 35 U.S. Code relied upon in the Examiner's Answer is set forth in the previous Office action, Paper 12092005.

1. Claims 10-15, 3-9, 19-21, and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maury, U.S. Patent Application Publication Number 2002/0046064.

(A) As per claims 10, 25, Maury teaches a computer implemented method of preparing an executable representation of a rating model (Examiner interprets “an executable representation of a rating model” to be computer executable code embodied on a computer readable medium, and therefore statutory subject matter), the method comprising:

defining an actuary-manipulable representation of a rating model, the actuary-manipulable representation embodied in computer readable media and encoding therein variables, factor tables and calculation sequences of the rating model, the calculation sequences defined in terms of steps operative on values of the variables and cells of the factor tables (Maury; paragraphs [0030]-[0033]); and

transforming the actuary-manipulable representation to the executable representation, the executable representation embodied in computer readable media and encoding therein resultant computer program code including a runtime lookup facility for identification of runtime identifiers in the executable representation corresponding to ones of the variables and a calculate method executable to generate a quote based on inputs supplied via a predefined input interface wherein the transforming is performed at least in part by a compiler that executes on a computational machine (Maury; paragraphs [0034], [0037]-[0039]);

wherein the computational machine on which the transforming is performed includes:

a processor that hosts an executable instance of program code executable thereon as the compiler (Maury; paragraphs [0030]-[0033], [0034], [0037]-[0039]); and

storage accessible to the processor constituting the computer readable media in which the actuary-manipulable representation of the rating model and the resultant program code of the

executable representation are respectively encoded (Maury; paragraphs [0030]-[0033], [0034], [0037]-[0039]).

Maury fails to explicitly disclose "factor tables having one or more axes." However, the above features are well known in the art, and Maury clearly teaches "[t]he DTP can accept multiple sets of data from different data models with the same set of actions performed on each" and "multiple data sets with multiple table blocks in each. The instructions are carried out upon each data set" (Maury; paragraph [0035]).

It is respectfully submitted that since Maury is directed to "providing a user with an on-line, real-time quote for an insurance product" (Maury; paragraph [0003]), the manipulation of "multiple data sets with multiple table blocks" of Maury, as recited in the above passage, broadly reads on the claimed "factor tables having one or more axes." It is the position of the Examiner that one having ordinary skill in the art at the time of the invention would have found it obvious to include factor tables having one or more axes within the method disclosed by Maury, with the motivation of furnishing an on-line quote to a user for an insurance product, such as auto insurance, which enables the quote to be presented in real time, without the delay inherent, for example, with the use of email (Maury; paragraph [0005]). Furthermore, as described in Applicant's specification (page 1, lines 20-23), "[w]hen taken together, the calculation sequence, the variables, and the factor tables (or tables of adjustments) make up a rating model. An insurance company will typically have a rating model for each line of insurance it offers."

(B) As per claims 11-12, Maury teaches a method as analyzed and discussed in claim 10 above

wherein, for a particular calculation sequence retrieved from the computer readable media encoding of the actuary-manipulable representation, the transforming includes:

decomposing the particular calculation sequence encoded therein into layers, each layer including those steps thereof that are at a same flow control level (Maury; paragraphs [0028], [0034]);

for each layer, traversing the steps thereof to identify those of the variables used by the layer (Maury; paragraph [0034], [0041]);

for each layer, traversing the calculation sequence to identify the steps of the layer targeted by other steps of the calculation sequence and emitting code allocating storage for results of the targeted steps (Maury; paragraph [0041]); and

for each layer, emitting code for variable test and index calculations of the layer wherein the emitted code is stored as part of an in-media computer readable encoding of at least a functional precursor to the resultant computer program code (Maury; paragraph [0041]); Examiner interprets Maury's teaching of "the underwriter copies its underwriting rules and moves them to live on the server 48 that houses the rating engine 64 for its underwriting" (Maury; paragraph [0041]) to teach a form of traversing the steps or selecting rules to apply; and

wherein the transforming includes:

emitting, for a particular calculation sequence, both logged and non-logged versions of the executable representation and encoding same as part of the resultant computer program code (Maury; paragraph [0012]).

(C) As per claims 13-15, Maury teaches a method as analyzed and discussed in claim 10 above

wherein the transforming includes a two-step compilation,

a first step thereof producing a platform independent source form from the actuary-manipulable representation (Maury; paragraphs [0024], [0031]), and

a second step thereof producing the executable representation from the platform independent source form and encoding same as the resultant computer program code (Maury; paragraphs [0024], [0031]);

wherein the runtime lookup facility of the executable representation includes in the resultant computer program code a predefined interface for obtaining the runtime identifiers corresponding to respective ones of the variables and factor tables of the rating model (Maury; paragraphs [0028]-[0029], [0031], [0034]); and

wherein, upon execution of the resultant computer program code, the runtime identifiers allow client code to set and access runtime storage corresponding to respective ones of the variables and factor tables (Maury; paragraphs [0028]-[0029], [0031], [0034]);

wherein the client code is part of a networked information service (Maury; paragraphs [0024], [0028]-[0029], [0031], [0034]); and

wherein the resultant computer program code is supplied for execution on a target computational machine that hosts the networked information service to prepare a quote for presentation thereby (Maury; paragraphs [0024], [0028]-[0029], [0031], [0034]).

(D) As per claims 24, 3, Maury teaches a method as analyzed and discussed in claim 10 above

further comprising:

executing the executable representation to calculate a quote for an insurance product (Maury; paragraphs [0024]-[0025], [0031]-[0032], [0034]); and

wherein the rating model defining is performed in accordance with XML (reads on “a predefined document type definition”); Examiner interprets Maury’s teaching of “the system application is written with Cold Fusion, Java, C, C++, Hypertext Markup Language (HTML), and JavaScript” (Maury; paragraph [0024]) as teaching using an assortment of markup languages to enable real-time insurance quoting. It is the position of the Examiner that one having ordinary skill in the art at the time of the invention would have found it obvious to include additional markup languages such as XML (reads on “a predefined document type definition”) within the method disclosed by Maury, with the motivation of using a publicly available, standardized data format (XML) to enable the meaningful exchange of data between the computers hosted by the web server and the resource server in order to further define the language for the intended audience, i.e. “various affinity groups,” in order to provide the individualized service required to

achieve Maury's recited objective of providing "the online quoting facility on affinity client websites" (Maury; paragraphs [0005], [0024], [0027]).

(E) As per claims 4-6, Maury teaches a method as analyzed and discussed in claims 10 and 24 above

wherein the transforming to the executable representation includes compilation of the actuary-manipulable representation to a platform independent executable form such as Java (Maury; paragraphs [0024], [0031]); and

wherein the executable representation includes:

predefined input and output interfaces (Maury; paragraphs [0034], [0037]-[0039];

a runtime lookup facility for identification of runtime identifiers in the executable representation corresponding to ones of the variables (Maury; paragraphs [0034], [0037]-[0039]); and

a calculate method of the compiled rating model executable to generate the quote based on inputs supplied via the input interface (Maury; paragraphs [0034], [0037]-[0039]);

employing the runtime lookup facility to identify particular runtime identifiers corresponding to particular variables (Maury; paragraphs [0028]-[0029], [0031], [0034], [0037]-[0039]);

setting values for the particular variables using the corresponding runtime identifiers and the predefined input interface (Maury; paragraphs [0028]-[0029], [0031], [0034], [0037]-[0039]);
and

retrieving the quote via the predefined output interface (Maury; paragraphs [0034], [0037]-[0039]).

(F) As per claims 7-8, Maury teaches a method as analyzed and discussed in claims 10 and 24 above

wherein the actuary-manipulable representation includes markup language encoded metadata (such as those based on markup languages such as XML) (Maury; paragraph [0024]);

wherein the actuary-manipulable representation is XML, encoded (Maury; paragraph [0024]); Examiner interprets Maury's teaching of "the system application is written with Cold Fusion, Java, C, C++, Hypertext Markup Language (HTML), and JavaScript" (Maury; paragraph [0024]) as teaching using an assortment of markup languages to enable real-time insurance quoting. It is the position of the Examiner that one having ordinary skill in the art at the time of the invention would have found it obvious to include additional markup languages such as XML within the method disclosed by Maury, with the motivation of using a publicly available, standardized data format (XML) to enable the meaningful exchange of data between the computers hosted by the web server; and the resource server in order to further define the language for the intended audience, i.e. "various affinity groups," in order to provide the individualized service required to achieve Maury's recited objective of providing "the online quoting facility on affinity client websites" (Maury; paragraphs [0005], [0024], [0027]).

(G) As per claim 9, Maury teaches a method as analyzed and discussed in claims 10 and 24 above

wherein the actuary-manipulable representation includes a graphical user interface presentation of the variables, factor tables and computational flows of the rating model based on markup language encoded metadata (Maury; paragraphs [0024]-[0025]).

(H) Claims 19, 21 differ from method claims 10, 15 by reciting a “computer program product comprising computer readable media ... [...] ...” in the preamble. As per this limitation, Maury’s method is inherently implemented on a computer, as it is directed to “providing a user with an on-line, real-time quote for an insurance product, such as an auto insurance product” (Maury; paragraph [0002]). As such, Maury implicitly includes computer elements such as a computer program product comprising computer readable media. The remainder of claims 19, 21 repeat the limitations of claim 10, 15, and are therefore rejected for the same reasons given above for claim 10, 15.

(I) As per claim 20, Maury teaches a method as analyzed and discussed in claim 19 above

wherein the runtime identifiers allow client code to employ the compiled rating model without knowledge of internals thereof (Maury; paragraph [0024]; Examiner interprets Maury’s teaching of “[t]he system connects to the rating server 48, such as a proprietary rating engine available from Agency Management System, Inc., prefills data into a host application and stores data to be retrieved via a computer telephony integration (CTI) system” (Maury; paragraph [0024] as teaching this limitation.

(J) System claims 26-27 repeat the subject matter of claims 10, 15, respectively, as a set of elements rather than a series of steps. As the underlying processes of claims 10, 15 have been shown to be fully disclosed by the teachings of Maury in the above rejections of claims 10, 15, it is readily apparent that the system disclosed by Maury includes the apparatus to perform these functions. As such, these limitations are rejected for the same reasons given above for method claims 10, 15, and incorporated herein.

(10) Response to Argument

In the Appeal Brief filed 21 September 2006, Appellant makes the following argument:

ARGUMENT

1. ERROR 1: Maury does not disclose Appellant's invention and no *prima facie* case of obviousness exists.
2. ERROR 2 The Maury provisional application does not contain the limitations of Appellant's invention.

Obviousness-U.S.C. § 103

Maury Does Not Disclose that which Examiner Attributes to Maury

Claim 10 Rejection not supported by Actual Content of the Relied upon Reference

Claim 11-No Prima Facie Case

Claim 13-No Prima Facie Case

Claim 19-No Prima Facie Case

Maury is NOT Prior

Precedent Governing Effective Date of a 102(e) Reference

Note on Variations not yet Addressed by the Courts

Specific Legal Error

Examiner will address Appellant's arguments in sequence as they appear in the brief.

ARGUMENT

Appellant errs in the statement in this section of the grounds of rejection to be reviewed on appeal; Examiner notes that claims 3-15, 19-21, and 24-27 should have been listed as the claims to be appealed.

1. ERROR 1: Maury does not disclose Appellant's invention and no *prima facie* case of obviousness exists.

There is no specific argument under this heading; the subject matter is discussed below.

2. ERROR 2 The Maury provisional application does not contain the limitations of Appellant's invention.

There is no specific argument under this heading; the subject matter is discussed below.

Obviousness-U.S.C. § 103

There is no specific argument under this heading, but rather a discussion of U.S.C. §103 and United States case law and interpretations of this code. The subject matter is discussed further below.

Maury Does Not Disclose that which Examiner Attributes to Maury

Although Appellant argues that the Maury reference fails to disclose Appellant's claimed invention, there is no specific argument under this heading, but rather a general statement in the first paragraph on page 9 of the Appeal Brief filed 21 September 2006, followed by a continued discussion of U.S.C. §103 and United States case law and interpretations of this code. The subject matter is discussed further below.

Claim 10 Rejection not supported by Actual Content of the Relied upon Reference

At pages 10-11 of the Appeal Brief filed 21 September 2006, Appellant argues that the claim limitations in claim 10 of the Application are not taught or suggested by the applied reference.

In response, all of the limitations which Applicant disputes are missing in the applied reference have been fully addressed by the Examiner as either being fully disclosed or obvious in view of the teachings of the cited reference, based on the logic and sound scientific reasoning of one ordinarily skilled in the art at the time of the invention, as detailed in the 35 USC § 103 rejections given in the prior Office Action (paper number 12092005), and incorporated herein. In particular, Examiner notes that the limitations of “transforming the actuary-manipulable representation to the executable representation,” as argued by Appellant on pages 10-11, are taught by the applied reference. In this regard, Examiner respectfully notes that Appellant’s invention is directed to “techniques, systems, encodings and functional sequences associated with the transformation of an insurance calculation base defined in a form suitable for manipulation by business users, e.g., actuaries, underwriters, product managers, etc., to an executable form suitable for use in rating, pricing or otherwise evaluating an insurance product” (Appellant’s Specification, page 3, last paragraph). Examiner further notes that in Appellant’s disclosure “uses of particular encodings, including eXtensible markup language (XML) encodings and Java™ or object-oriented programming language constructs, are merely exemplary” and that “[i]n particular, the invention is not limited to any particular encodings, programming techniques or executable forms,” (Appellant’s Specification, page 4, lines 7-10). And, for additional clarification on Appellant’s transformation to executable form, Appellant’s Specification teaches that “[c]ompiler 141 transforms a representation of calculation base 110 from user-or actuary-manipulable form to an intermediate form such as objects, methods and interfaces defined in accordance with the Java™ programming language. *See generally*, Arnold

& Gosling, The Java™ Programming Language, © 1996 by Sun Microsystems, Inc.” (Appellant’s Specification, page 5, lines 13-17), and that “[c]ompiler 142 transforms intermediate source form 120 to executable form as compiled rating model 130” (Appellant’s Specification, page 5, lines 23-24) and that “[t]ypically, compiler 142 includes any commercially available Java compiler 10 (such as the *javc* compiler, available from Microsoft Corporation), although other configurations are also possible” (Appellant’s Specification, page 6, lines 9-11). Appellant concludes that “[i]n this way, an application such as quote generator, web server, etc. may employ a compiled rating model 130 corresponding to an actuary-manipulable calculation base without detailed knowledge of the internals thereof” (Appellant’s Specification, page 6, lines 6-8).

In this regard, Examiner notes that in the applied reference, Maury, both in the Patent Application Publication and in the Provisional Application, teaches “[t]he intended audience for the system of an embodiment of the present invention is the general public [“business users, e.g. actuaries ...”]” (Maury; paragraph [0027]), (Maury Provisional, Attachment “A,” page 5 of 29, paragraphs 1-2) and “the user has, for example, three different levels of assistance for selecting coverages. One such level is a coverage wizard [i.e. “actuary-manipulable representation”], which can utilize financial data, entered by the user [e.g. an “actuary”] and held only during the session, to make coverage recommendations [i.e. having been transformed “to the executable representation”]. The user is allowed to use the coverage wizard to understand coverages without entering financial information. The user can also choose to have no assistance and enter coverages without guidance” (Maury; paragraph [0025]), (Maury Provisional, Attachment “B,”

page 3 of 20, paragraphs 1-7), and “[a]t S4, the user 60 enters a request for a quote, and the Java module 78 formats and transfers the user data to the rating engine server 48” (Maury; paragraph [0037]), (Maury Provisional page 6, lines 3-6) followed by “[a]t S7, a quote is returned to the web application server 24 for display on a Cold Fusion page. At S8, the Oracle MI database 92 is updated to record the user information and premium (Maury; paragraph [0038]), (Maury Provisional page 6, lines 7-9); Examiner interprets this transformation from user-entered or “user-manipulable” data into a quote that results from execution by a Java module and a rating engine server to be a form of “transforming the actuary-manipulable representation to the executable representation.”

Furthermore, Examiner notes that Maury additionally teaches “[t]he system for an embodiment of the present invention provides an online auto quoting facility that provides a user with a real-time auto insurance quote. The user can initiate contact with a personal lines CSR to purchase insurance based on that quote. The system connects to the rating server 48, such as a proprietary rating engine available from Agency Management System, Inc., prefills data into a host application and stores data to be retrieved via a computer telephony integration (CTI) system. The system application is written with Cold Fusion, Java, C, C++, Hypertext Markup Language (HTML), and JavaScript. An aspect of the system and method for an embodiment of the present invention is providing the online quoting facility on affinity client websites. The system enables the user to enter data into web pages constructed with Cold Fusion Markup Language (CFML), HTML, and minimal JavaScript” (Maury; paragraph [0024]), (Maury Provisional, Attachment “A,” page 3 of 29, paragraphs 1-4); Examiner interprets these teachings

of transforming data from a form that can be manipulated by a “user” or “member of the general public,” who is not required to have detailed knowledge of the processes behind the transformation (i.e. “of the internals thereof” (Specification; page 6, line 8)), to an executable form, where the data can be prefilled, stored, accessed, and retrieved into the “rating engine” in order to provide an insurance quote, as teaching “transforming the actuary-manipulable representation to the executable representation,” as argued by Appellant on pages 10-11. Furthermore, Examiner notes that although Maury does not use the word “transforming” the meaning of “transforming” is “changing the form of” and Examiner notes that Maury, as discussed above, does teach changing the form of the data representation.

With regard to Appellant’s objections to Examiners statements that certain limitations are “well known in the art” and to Appellant’s request for “evidence” in paragraph 1 of page 12 of the Appeal Brief, Examiner is surprised by these objections, as Examiner notes that Appellant did not previously clearly state why the noticed facts are not considered to be common knowledge or well known in the art. Examiner was under the impression that these limitations were admitted prior art since this rejection was clearly stated in Examiner’s first rejection of the claims, and since Examiner can find no evidence in any prior remarks of Appellant that the common knowledge or well-known in the art statement has ever been traversed, despite Appellant’s reference in the Appeal Brief to the argument/request as a “renewed” request.

Nevertheless, Examiner notes that Maury clearly teaches that “[t]he rating engine server 48 provides a rating system which allows a front-end provider to utilize Applicative Real-Time

Programming (ART) rating to calculate premiums" (Maury; paragraph [0032]), (Maury Provisional, Attachment "A," page 14 of 29, paragraph 1), and "[t]he DTP can accept multiple sets of data from different data models with the same set of actions performed on each" (Maury; paragraph [0035]) (Maury Provisional, Attachment "D," page 1 of 6, paragraph 1), and the manipulation of "multiple data sets with multiple table blocks in each. The instructions are carried out upon each data set" (Maury; paragraph [0035]), (Maury Provisional, Attachment "D," page 1 of 6, paragraph 1). In addition, Maury teaches "the data is uploaded to relational database system software, such as a Solaris Oracle database, to be used for management information systems (MIS) reporting" (Maury; paragraph [0026]), (Maury Provisional, Attachment "B," page 10 of 20, section VII) and "[t]he system for an embodiment of the present invention stores data in the Oracle database 40 with Oracle database attributes. Data is passed, for example, to and from the rating engine server 48. Data is also sent to the host application 56. FIG. 4 is a chart which illustrates examples of data tables for the system of an embodiment of the present invention" (Maury; Figure 4, paragraph 0033), (Maury Provisional, Attachment "B," page 10 of 20, section VII, page 12 of 20). As per these teachings, Examiner notes that one part of the functionality of electronic databases has always been the manipulation of data tables into graphical representations of the data, and that Maury also teaches "Oracle DB Insert will store customer information in the Oracle DB for reporting purposes" and "[c]ustomer pages should be displayed on the browser within 3 seconds (including graphics)" (emphasis added) (Maury Provisional, Attachment "B," page 10 of 20, section VII). Examiner interprets these teachings of Maury to be a form of "factor tables having one or more axes," the limitation noted by Examiner

as being well-known in the art, and it is Examiner's contention that one having ordinary skill in the art at the time of the invention would have found it obvious to include factor tables having one or more axes within the method disclosed by Maury, with the motivation of furnishing an on-line quote to a user for an insurance product, such as auto insurance, which enables the quote to be presented in real time, without the delay inherent, for example, with the use of email (Maury; paragraph [0005]).

As per Appellant's argument in paragraph 2 on page 12 of the Appeal Brief that "the Office appears to rely (in part) on the background of Applicant's specification," Examiner respectfully disagrees, and notes that the specification was not applied as a prior art reference, but rather included in the discussion as a further explanation of the "well-known" characteristic of factor tables having one or more axes. The remainder of paragraph 2 has been discussed earlier in this Examiner's Answer.

Claim 11-No Prima Facie Case

At page 12, paragraph 3 of the Appeal Brief filed 21 September 2006, Appellant argues that "the 'corresponding disclosure' identified by the office is pure fiction." Examiner interprets this statement to mean that Appellant does not believe in the existence of the (70 page) Maury provisional application. Examiner respectfully disagrees, as evidenced by Examiner's specific referrals to pages and paragraphs in the Maury Provisional Application listed earlier in this Examiner's Answer.

At pages 12-13 of the Appeal Brief filed 21 September 2006, Appellant argues that the claim limitations in the claim 11 are not taught or suggested by the applied reference, and that no *prima facie* case exists. Examiner respectfully disagrees. Although the Maury reference does not use the identical terminology to Appellant's claim language, the Maury reference teaches steps that are components of the process of programming and software execution. Accordingly, Examiner interprets Maury's teachings of

“a web-based application, which has three major components, including a front end which is referred to as the presentation layer. The presentation layer is developed using, for example, Cold Fusion, and runs on a web application server 24. The web application server 24 communicates with the rating engine server 48 that provides comparative rates. Thus, the system makes use of the rating engine server 48 with a knowledge based system for underwriting owned by the underwriter, and from there it feeds data into the underwriter's CTI system, as well as back into the underwriter's host based system for issuance. The system is available on the Internet and is accessed, for example, via an auto insurer's web site and advertising click-through from external sites” (Maury; paragraph [0028]), (Maury Provisional, page 4 paragraph 2);
and

“[r]etrieval and/or updating of data between the web application server 24 and the Oracle database server 40 is secured with application level user ID/passwords. Data transmission between the middleware RMI server 80 and the mainframe host application 56 are secured via MQ security. All communication

paths are also secured via stateful inspection of conversations by at least two firewall layers. Confidential data is transferred between the web application server 24, the rating engine server 48, and the host 56. For communication between the web application server 24 and the user 60, Secure Sockets Layer (SSL) is used" (Maury; paragraph [0034]), (Maury Provisional, Attachment "A," page 23 of 29, second and third bulleted points);

together with Maury's description of the execution of steps including "tiers" or "levels" as taught in Maury's Figure 6 as well as in Maury Provisional, Attachment "A," pages 8 and 14 of 29, Attachment "B," pages 6 and 7 of 20, as well as in Figures F and G as teaching the limitations, wherein, for a particular calculation sequence of the actuary-manipulable representation, the transforming includes: decomposing the particular calculation sequence into layers, each layer including those steps thereof that are at a same flow control level; for each layer, traversing the steps thereof to identify those of the variables used by the layer; for each layer, traversing the calculation sequence to identify the steps of the layer targeted by other steps of the calculation sequence and emitting code allocating storage for results of the targeted steps; and for each layer, emitting code for variable test and index calculations of the layer, as recited in dependent claim 11. Thus, it is respectfully submitted that Appellant appears to view the applied reference without considering the knowledge of average skill in the art, and it is respectfully submitted that a *prima facie* case of obviousness has been clearly established by the Examiner.

Claim 13-No Prima Facie Case

At page 13 of the Appeal Brief filed 21 September 2006, Appellant argues that the claim limitations in the claim 13 are not taught or suggested by the applied reference, and that no *prima facie* case exists. Examiner respectfully disagrees. Although the Maury reference does not use the identical terminology to Appellant's claim language, the Maury reference teaches steps that are components of the process of programming and software execution. Accordingly, Examiner interprets Maury's teachings of

"[t]he system connects to the rating server 48, such as a proprietary rating engine available from Agency Management System, Inc., prefills data into a host application and stores data to be retrieved via a computer telephony integration (CTI) system. The system application is written with Cold Fusion, Java, C, C++, Hypertext Markup Language (HTML), and JavaScript. An aspect of the system and method for an embodiment of the present invention is providing the online quoting facility on affinity client websites. The system enables the user to enter data into web pages constructed with Cold Fusion Markup Language (CFML), HTML, and minimal JavaScript"

Maury; paragraph [0024]); (Maury Provisional, Attachment "A," page 33 of 29, first bulleted point);

and

"once the Cold Fusion application 76 gets all of the input information from the user 60, it passes the information as a string object through the RMI server 80 in the web application server 24. The RMI server 80 then activates a C Dynamic Link Library (DLL) through Java Native Interface (JNI). The message is then passed to the MQSeries queue. The host application 56 picks up the application

message from the queue and formats the user information in a CSR screen for quick and accurate service. This web server-to-mainframe host application message exchange makes use of a three tier distributed model. This not only makes the message exchange scalable and secure, it can also be reused in other similar application message exchanges with little or no modifications. The RMI server 80 on the middle tier server 50 uses a Java security policy file to limit the RMI server's access on the server, sometimes referred to as a "sandbox". Besides using the three-tiered architecture for application message passing, the security feature is restricted by the Java2 platform"

Maury; paragraph [0031]); (Maury Provisional, Attachment "A," page 6 of 29, last paragraph to page 7 of 29, first paragraph);

together with Maury's description of the execution of steps using cross-platform or platform-independent computer software such as Java and web applications and their implementations, as taught in Maury's Figure 6 as well as in Maury Provisional, Attachment "A," pages 8 and 14 of 29, Attachment "B," pages 6 and 7 of 20, as well as in Figures F and G as teaching the limitations, a two-step compilation, a first step thereof producing a platform independent source form from the actuary-manipulable representation, and a second step thereof producing the executable representation from the platform independent source form as recited in dependent claim 13. Thus, it is respectfully submitted that Appellant appears to view the applied reference without considering the knowledge of average skill in the art, and

it is respectfully submitted that a *prima facie* case of obviousness has been clearly established by the Examiner.

Claim 19-No Prima Facie Case

At pages 13-14 of the Appeal Brief filed 21 September 2006, Appellant argues that the claim limitations in the claim 19 are not taught or suggested by the applied reference, and that no *prima facie* case exists. Examiner respectfully disagrees. Although the Maury reference does not use the identical terminology to Appellant's claim language, the Maury reference teaches steps that are components of the process of programming and software execution. Accordingly, Examiner interprets Maury's teachings of

"[r]etrieval and/or updating of data between the web application server 24 and the Oracle database server 40 is secured with application level user ID/passwords. Data transmission between the middleware RMI server 80 and the mainframe host application 56 are secured via MQ security. All communication paths are also secured via stateful inspection of conversations by at least two firewall layers"

(Maury; paragraph [0034]); (Maury Provisional, Attachment "A," page 23 of 29, second and third bulleted points); and

"[o]nce the Cold Fusion application 76 gets all of the input information from the user 60, it passes the information as a string object through the RMI server 80 in the

web application server 24. The RMI server 80 then activates a C Dynamic Link Library (DLL) through Java Native Interface (JNI)”

Maury; paragraph [0031]); (Maury Provisional, Attachment “A,” page 6 of 29, last paragraph to page 7 of 29, first paragraph);

together with Maury’s description of the execution of steps as taught in Maury’s Figure 6 and paragraphs [0037]-[0039], as well as in Maury Provisional, Attachment “A,” pages 8 and 14 of 29, Attachment “B,” pages 6 and 7 of 20, as well as in Figures F and G, to teach “a lookup facility for identification of runtime identifiers” as claimed in independent claim 19.

The remainder of Appellant’s arguments regarding independent claim 19 have been addressed earlier in this Examiner’s Answer. Thus, it is respectfully submitted that Appellant appears to view the applied reference, separately and in a vacuum, without considering the knowledge of average skill in the art, and it is respectfully submitted that a *prima facie* case of obviousness has been clearly established by the Examiner.

Maury is NOT Prior

At pages 14-15 of the Appeal Brief filed 21 September 2006, Appellant argues that “the disclosure of the provisional application and that of the relied upon Maury publication *differ greatly* ... and [the differences] are material to Maury’s effective date as a reference...” Examiner respectfully disagrees. Consequently, Examiner has, throughout this Examiner’s Answer, provided specific referrals to Pages and Paragraphs and Figures in both the applied

Maury reference and in the Maury's 70 page Provisional Application, filed 19 May, 2000, that support the rejections of Appellant's recited claim limitations.

Thus, it is respectfully submitted that Maury is a valid prior reference, since disclosure sufficient to reject Appellant's claims have been found in both the Maury publication and in the disclosure content of Maury's provisional application.

Precedent Governing Effective Date of a 102(e) Reference

This section, on pages 15-17 of the Appeal Brief filed 21 September 2006, contains a discussion of legal precedents governing the effective date of a U.S.C. §102(e) reference, and includes United States case law and interpretations of this code. Examiner thanks Appellant for this informative discussion, however Examiner observes that the subject matter argued has been discussed earlier in this Examiner's Answer.

Note on Variations not yet Addressed by the Courts

This section, on page 17 of the Appeal Brief filed 21 September 2006, contains a discussion of the alleged lack of legal precedents governing the effective date of a U.S.C. §102(e) reference, and includes further §102(e) date analysis and additional case law interpretations of code. Examiner thanks Appellant for this informative discussion, however Examiner observes that this subject matter argued has been discussed earlier in this Examiner's Answer.

Specific Legal Error

With regard to Appellant's assertions that Examiner has failed to address the assertions, in Appellant's Amendment After-Final, that the Maury Provisional Patent Application Number 60/206,007 does not contain the information disclosed in the applied passages of Maury, U.S. Patent Application Publication Number 2002/0046064, Examiner respectfully disagrees. Examiner calls attention to the previous Advisory Action, (paper number 05082006) responding to the Amendment After-Final, in which Appellant alleged (for the first time) that "[a] brief review of Maury reveals that various aspects of the disclosure (description and figures) relied upon in the rejection do not appear in U.S. Provisional Patent Application Serial No. 60/206,007." In that Advisory Action, Examiner stated:

"Examiner notes that the following attachments to the Maury Provisional Application, for example, disclose the information present in the applied passages: Attachment "A," pages 8 and 14 of 29 show the flow chart disclosed in Figure 6 and discussed in the applied passages; Attachment "B," pages 6 and 7 of 20 show the system disclosed and discussed in the applied passages; Attachments "F" and "G" show the schematic flow chart and system disclosed and discussed in the applied passages. As such, the Examiner considers the Maury provisional application to support the aspects of the disclosure relied upon in the previous rejections (papers number 06212005 and 12092005)" (emphasis added) (paper number 05082006, paragraph i).

Examiner does not interpret these correspondences to be “generalities,” as asserted by Appellant, but rather explicit citations of passages in the provisional application that correspond to applied passages in Maury, as requested in Appellant’s response After-Final.

With respect to Appellant’s arguments in the remaining paragraphs in this section, these have been addressed earlier in this Examiner’s Answer.

Conclusion

Appellant’s arguments at pages 7-19 of the Appeal brief submitted 21 September 2006 do not appear to persuasively require a withdrawal of the Examiner’s grounds of rejection. As specified in the remarks and rebuttals given above, Appellant’s arguments apparently fail to appreciate the clear and unmistakable suggestions provided in the prior art of record, and relied upon by the Examiner for motivation to combine such well-known elements of the prior art. As such, it is respectfully submitted that an explanation based on logic and sound scientific reasoning of one ordinarily skilled in the art at the time of the invention that support a holding of obviousness has been adequately provided by the motivations and reasons indicated by the Examiner both in the present Examiner’s Answer as well as the previous Office Action (Paper Number 12092005), *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter., 4/22/93).

Thus, in light of the reasons and responses given above, it is respectfully submitted that a *prima facie* case of obviousness has been clearly established by the Examiner.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Natalie A. Pass
Examiner, Art Unit 3686

/N. A. P./
April 6, 2010

/Gerald J. O'Connor/
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